



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/072,877	02/12/2002	Douglas Allard	11533.0012CNUS06	3959

7590 11/18/2002

GLENN W. RHODES, ESQ.  
ARNOLD WHITE & DURKEE  
P.O. BOX 4433  
Houston, TX 77210

EXAMINER

PECHHOLD, ALEXANDRA K

ART UNIT	PAPER NUMBER
----------	--------------

3671

DATE MAILED: 11/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

SK

**Office Action Summary**

Application No.

10/072,877

Applicant(s)

ALLARD, DOUGLAS

Examiner

Alexandra K Pechhold

Art Unit

3671

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --****Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 February 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-6 and 23-27 is/are allowed.
- 6) ☒ Claim(s) 7-9, 11, 13, 15-22 and 28 is/are rejected.
- 7) ☒ Claim(s) 10, 12 and 14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2</u> . | 6) <input type="checkbox"/> Other: _____                                    |

Art Unit: 3671

### **DETAILED ACTION**

1. The use of the trademark VELCRO has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology, hook and loop fastener.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

### ***Priority***

2. This application filed under former 37 CFR 1.62 lacks the necessary reference to the prior application. A statement reading "This is a continuation of Application No. 09/384,932, filed 8/27/99." should be entered following the title of the invention or as the first sentence of the specification. Also, the current status of the parent nonprovisional application should be included.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application

Art Unit: 3671

being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

**4. Claims 7-9, 11, 13, 15-21, and 28 are rejected under 35 U.S.C. 102(e) as being anticipated by McDermott (US 6,045,691).**

Regarding claims 7 and 28, McDermott discloses a catch basin filtration system comprising a filter body, seen as troughs (4), dimensioned to fit within an inlet and obstructing at least a portion of the inlet, and one or more fluid displaceable adsorbent containers with the filter body, seen as sock (2) and bag (3) in Fig. 2. The bag (3) or sock (2) inherently can become displaced as the troughs (4) fill with fluid.

Regarding claim 8, McDermott discloses an absorbent pouch removably connected to the interior of the filter body, seen as sock (2), which McDermott says slips into and storm sewer, and can be replaced whenever needed (Col 6, line 3 and lines 19-21).

Regarding claim 9, McDermott discloses the use of absorbent material in column 6, lines 7-9.

Regarding claim 11, a high fluid blow bypass route is inherent in McDermott's storm water opening, since water can just flow outside the perimeter of the apparatus (1).

Regarding claim 13, McDermott discloses one or more filter body support brackets seen as lips (5) on the troughs (4) shown in Figs. 4 and 6.

Regarding claim 15, the sock (2) of McDermott will inherently collect debris at the bottom of the troughs (4) by the way the socks (2) are positioned in the bottom of the troughs (4).

Regarding claim 16, McDermott discloses retaining runoff in a catch basin filtration system shown in Fig. 1, with the troughs (4), bag (3) and sock (2) dimensioned to fit within an inlet and forming a trough obstruct at least a portion of the inlet, and exposing the runoff to one or more fluid displaceable absorbent containers within the system, seen as sock (2) and bag (3).

Regarding claim 17, the sock (2) of McDermott is not rigidly fastened, and therefore has the capability of floating.

Regarding claim 18, a high fluid blow bypass route is inherent in McDermott's storm water opening, since water can just flow outside the perimeter of the apparatus (1).

Regarding claim 19, McDermott discloses an absorbent pouch removably connected to the interior of the filter body, seen as sock (2), which McDermott says slips into and storm sewer, and can be replaced whenever needed (Col 6, line 3 and lines 19-21).

Regarding claim 20, since the bag (3) of McDermott is at the bottom of the system, the debris and sediment collects there as seen in Fig. 1.

Regarding claim 21, the sock (2) and bag (3) of McDermott attach to the troughs (4).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over **McDermott (US 6,045,691)**. The bag (3) of McDermott attaches via holes (6) (Col 5, lines 39-41). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the attachment of the bag of McDermott in the holes to also utilize clips, snaps, loops or VELCRO™, since these are commonly used fastening means, which can be readily combined with the holes to fasten the bag to the troughs.

***Allowable Subject Matter***

7. Claims 1-6 and 23-27 are allowed.

8. Claims 10, 12, and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

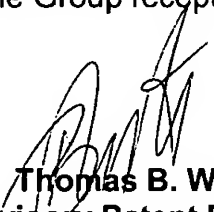
***Response to Arguments***

9. Applicant's arguments filed 2/12/02 have been considered but are moot in view of the new grounds of rejection. In reviewing the ongoing argument of whether the cartridges (10) of Tharp are inherently fluid displaceable, the applicant's argument has validity, in that in functioning properly, the cartridges are designed to remain in their seated position as seen in Fig. 3, and Tharp gives no indication of any possibility that they would displace. In reviewing the prior art, some claims are now rejected over a new reference by McDermott.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexandra Pechhold whose telephone number is (703) 305-0870. The examiner can normally be reached on Mon-Thurs. from 8:00am to 5:30pm and alternating Fridays from 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached on (703)308-3870. The fax phone number for this Group is (703) 305-3597.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1113.

  
**Thomas B. Will**  
**Supervisory Patent Examiner**  
**Group 3600**

AKP  
11/7/02